

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PALMER/KANE LLC,

Plaintiff,

v.

SCHOLASTIC CORPORATION and
SCHOLASTIC, INC.,

Defendants.

Case No. 14 Civ. 7805 (TPG)

NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon this motion, the accompanying Memorandum and exhibits attached thereto, and the Declaration of Clyde A. Shuman, Plaintiff Palmer/Kane LLC will move this Court, before the Hon. Thomas P. Griesa, at the United States Courthouse, 500 Pearl Street, New York, New York, at a date and time to be set by the Court, pursuant to Rule 37(a), Federal Rules of Civil Procedure, for an Order compelling Defendants Scholastic Corporation and Scholastic, Inc. (collectively, “Scholastic”), to produce all documents and things referring or related to or evincing sales or other distribution of the Accused Publications¹ by, for or on behalf of Scholastic, since March 31, 2014, and specifically compelling production of documents in response to Palmer/Kane’s Requests for Production Nos. 5, 16 and 22, viz:

- Documents showing the number of copies Scholastic caused to be printed of each of the Accused Publications in the United States, from April 1, 2014 to the present, broken down by print run;

¹ “Accused Publications” refers to, collectively, those Scholastic publications identified in paragraphs 18-34 of the First Amended Complaint in this action (Dkt. No. 17).

- Documents sufficient to show the total number of e-Books Scholastic has sold or distributed for each of the Scholastic Publications, including without limitation each of the Accused Publications, and the dates of sale or distribution. To the extent Scholastic maintains this information in one or more databases or other electronic format, please produce this information in the form of database spreadsheet(s) or through some other form of electronic data production; and
- Documents showing the gross revenues Scholastic received in connection with the sale, distribution, or other use, including by electronic means, of each of the Accused Publications in the United States, from April 1, 2014 to the present.

RULE 37(a)(1) CERTIFICATION

Pursuant to Rule 37(a)(1), Federal Rules of Civil Procedure, the undersigned hereby certifies that the movant, Palmer/Kane, has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery, Scholastic, in an effort to obtain it without court action.

PEARL COHEN ZEDEK LATZER BARATZ LLP

October 7, 2015

By: /s/ Clyde A. Shuman
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